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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,412	10/21/2003	Charles W. Krespach	242-321	5950
7590 08/14/2008				
Robert H. Earp, III McDonald, Hopkins Co., LPA 600 Superior Avenue E. Suite 2100 Cleveland, OH 44114-2653				
EXAMINER				
WINNER, TONY H				
ART UNIT		PAPER NUMBER		
3611				
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08/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/690,412

Applicant(s)

KRESPACH ET AL.

Examiner

Tony H. Winner

Art Unit

3611

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/22/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39-41 is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5, 8, 9, 17-19, 22, 23 and 36-39 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 24 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Acknowledgment

1. Receipt of the amendment filed 5/22/08 has been acknowledged and entered.
New claims 36-41 have been added.

Withdraw Previously Allowed Claims

2. The indicated allowability of claims 5 and 23 are withdrawn in view of reference to Dear (USPN. 2,549,178). Rejections based on the newly cited reference follow.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Dear (USPN. 2,549,178).

Dear discloses all of the structural (figure 1) as claimed, the a towing assembly, comprising:

- a. a hitch ball receiver (17) having at least one acircular recess (adjacent numeral 28) having a sidewall, wherein said recess is a channel;
- b. a hitch ball (12);
- c. a base (27) integrally formed with the hitch ball, the base having perimeter, wherein a substantial portion of the perimeter of the base is engageable with the

sidewall of the recess to prevent rotation of the hitch ball during installation;

d. wherein said hitch ball receiver includes a first face and a second face, where structure (22) is attached, said recess being provided in said first face;

e. wherein a second recess is provided on second face; and

f. wherein the hitch ball receiver is a hitch bar (19).

Regarding claims 4-5, 8-9, and 17-19, and 22-23 Dear discloses all of the claimed limitations.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eaton (USPN. 3,876,242) in view of Templeman (USPN. 4,56,345).

Eaton discloses a trailer hitch system (figure 1), the structure comprising:

a. a hitch ball (10) having a base (12) integrally formed therein;

b. a shank extending from the base of the hitch ball;

c. a hitch ball receiver (14) having at least recess wherein the base is engageable with the recess to during installation; and

d. an aperture (22) in the hitch receiver shaped and sized to receive the shank of the hitch ball, wherein the aperture has a perimeter (adjacent numeral 22), and further wherein a substantial portion of the perimeter of the aperture is surrounded by the recess.

Eaton does not teach an anti-rotation means when the base is engageable with the recess.

Templeman discloses a mirror assembly for a vehicle, the structure comprising:

a. a ball (25) with integrally formed base member (38) that includes structure that when mating with a recess with of the base (7) would to prevent rotation between the two members.

Based on the teaching of Templeman, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hitch ball's base and the recess of Eaton to include the engageable member with a circular recess hitch ball receiver of Templeman so as to provide a positive locking, thus, preventing relative rotation between two members.

With regard to claims 37-38, Eaton as modified by Templeman discloses all of the claimed limitations.

Response to Arguments

5. Applicant's arguments filed 5/22/08 have been fully considered but they are moot in view of reference to Dear, Eaton, and Templeman.

6. Claims 6-7 and 24-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Claims 39-41 are allowed.

Conclusion

8. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Anthony H. Winner whose telephone number is (571) 272-6654. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris, can be reached at (571) 272-6651. The fax phone number for the organization where this application or proceeding is (571) 273-8300.
9. Information regarding the status of an application may be obtained from the Patent Application Information-Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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10. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6584.

/Tony H. Winner/
Primary Examiner, Art Unit 3611
August 11, 2008